S.B. CIVIL WRIT PETITION NO.1512/2004.

Bheema Ram vs. Bharat Kumar and another.

Date : 13.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Pradeep Shah, for the petitioner.

Mr. Sangeet Lodha, for the respondents

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Heard learned counsel for the parties.

The petitioner is aggrieved against the order dated 24.2.2004 by which the Trial Court rejected the petitioner/defendant's application filed under Section 148 C.P.C. for extending time for filing written statement as the same was filed on 15.1.2004 which is beyond 90 days outer limit provided for filing the written statement.

It appears that there is a slight delay on the part of the petitioner in filing the written statement but according to learned counsel for the petitioner, the last date for filing written statement expired on 13.12.2003 but that was not the date fixed for filing the written statement. The written statement was filed on the date on which the case was fixed by the Trial Court.

In the totality of the facts of the case, it will be just and proper to take a liberal approach in the

matter of filing of written statement because that is a valuable right.

In view of the above, this writ petition is allowed, the order dated 24.2.2004 is set aside, the application under Section 148 C.P.C. is allowed and the time for filing the written statement is extended upto the date on which the petitioner filed the written statement and the written statement is taken on record as filed within extended time.

(PRAKASH TATIA), J.

S.Phophaliya